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May 26, 1994

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**BY HAND DELIVERY**

Mr. Reed Hundt, Chairman  
Federal Communications Commission  
1919 M Street, N.W. 8th Floor  
Washington, D.C. 20554

OFFICE OF PLANS & POLICY

Re: Minority Ownership Alternatives In PCS

Dear Mr. Hundt:

We understand that there is an ongoing proceeding at the Federal Communications Commission (FCC) that will govern the new licensing of Personal Communications Services (PCS). Based on the rapid growth of cellular phones and other wireless technologies, the market for this new form of wireless communication has the potential of being enormous. Before you finalize your rules and procedures, we offer the following recommendations to maximize the rapid growth and development of this technology.

When television and radio were introduced to the market, many segments were excluded from participation. The fact remains that only three percent of broadcast station owners in this country are minorities and less than one percent of the nation's telecommunications facilities are minority-owned. We do not want to repeat history and allow any true opportunities for minorities to benefit from the economic advantages of PCS to be suppressed. We, therefore, encourage you to examine the licensing procedures for this new technology and the realistic effect they have on minority participation. In doing so, we ask that you seriously consider our proposals.

We understand the Commission's concerns regarding a set-aside programs for minority women and small business owners. Even though we believe a set-aside program would be an effective and legal method of sparking economic development in depressed areas and ensuring diversity of ownership, we now present for your consideration, a plan that provides women and minority-owned companies the "First Option" to bid on an limited-band of spectrum space reserved for PCS service. As a preliminary step, the government should establish a minimum

List A B C D E

Mr. Reed Hundt  
May 26, 1994  
Page 2

bid for this special band of spectrum. Under this "First Option" policy, women and minorities would have the first opportunity to bid on the spectrum and if they failed to meet the threshold auction price, or otherwise fail to bid at all, then the spectrum space would be open for all potential bidders. This "First Option" policy has precedent in the FCC's clear channel proceeding and A.M. daytimer proceedings. It also may be more defensible against legal challenge because the policy is more narrowly tailored and does not create an absolute bar to participation by non-designated groups. It also serves the government interest, by ensuring that all spectrum space for this PCS technology is effectively utilized in a timely fashion.

Another of the most effective tools that can be employed in ensuring ownership opportunities for minorities in this new billion dollar market is the issuance of tax certificates in a few specific instances. Investors who joint venture with minority companies should be able to obtain a tax certificate (defer tax on capital gains) for the profits that they realize. Also, present users of the existing spectrum and future PCS operators that sell their spectrum or facilities to minorities should receive tax certificates to spark economic reinvestment. Tax certificates offer real and viable financial incentives. Therefore, tax certificates should also be broadly applied to the telecommunications services at issue in these proceedings.

Another technique that will help to ensure minority participation, is to allow minority groups to obtain government financing through the creation of a Telecommunications Development Pool (TDP). All other incentives for minority bidders are useless if the minorities do not have access to capital to bid, build and operate the PCS systems. Due to many factors, minorities will have great difficulty obtaining the capital. Congress is particularly aware of and made numerous findings concerning these historical barriers. We recommend the creation of a TDP for minorities through a loan program at the Department of Commerce. This could be funded in part by a small percentage of the revenue generated from the auction process. Precedent for this type of federal funding has been established in the Public Broadcasting and RTC Completion Acts. Under these Acts, minority groups can acquire loans to purchase PBS stations or the nation's failing banks. Similarly, the TDP could be established to aid minority groups own, construct and operate telecommunications facilities. The construction and operation phase is as critical as the initial licensing process. Most of what the Commission has done to encourage minority ownership of PCS provides assistance in the initial licensing phase. The TDP could help significantly in the construction and operational phases. We ask the Commission to acknowledge the continuing existence of financial barriers and attempt to reduce their significance by affording minorities financing in not only licensing, but construction and operation as well.

The Commission should also reduce the percent of the "Upfront Front" money deposit required for the opening bids of minority applicants. Allowing a reduction for minorities in their deposit requirements can aid in getting them inside the bidding process and thus increasing the overall pool of competition.

Mr. Reed Hundt

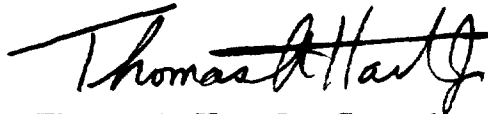
May 26, 1994

Page 3

Additionally, the time a new licensee has to construct its facilities should be extended for minorities. Due to the many obstacles that severely delay minorities, the current time limits for consideration may be strict. The effect of these strict standards are that minorities who are granted licenses and construction permits may often lose them because they are unable to construct their facilities within the time period specified by the FCC. Thus if necessary, minority companies should be allowed a limited extension of time to construct their facilities.

As you know, minorities have continually been underrepresented in the ownership of the telecommunications industry. It is our hope that we will be included in the development of the PCS. Our goal is clear -- to provide minority groups and women with an equal opportunity to participate in the new PCS industry. Everyone benefits from the diversity in ownership and the investments into minority and female-owned businesses. We look forward to your reaction to our recommendations and working with you to ensure the nation's telecommunications facilities are open to all segments of our population.

Sincerely,



Thomas A. Hart, Jr., Counsel

Communications Task Force;  
Minority Media Ownership and Employment Council;  
National Black Business Council, Inc.

cc: All Commissioners  
William E. Kennard, Esq.  
✓ Robert M. Pepper